IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 3211 of 2005

Between:

P.Guruswamy Reddy, S/o.Srinivasula Reddy,
R/o.13-6-600/39, P.K.Layout, Tirupathi, Chittoor District.

..... PETITIONER

AND

1 The Administrative Officer,

Sri Swamy Hathiramji Mutt, Tirupathi,

Chittoor Dist.
2 The Assistant Commissioner,

Endowments Department,

Chittoor, Chittoor Dist.
3 The Commissioner,

Endowments Department, Government of

A.P.Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the impugned Proceedings Rc.No.A3/1804/2004, Dt.3.1.2005, as arbitrary, illegal, unjust and contrary to the provision of the Act and Judgments of this Hon'ble Court and to set aside the same and further direct the respondents not to dispossess the petitioner of 2 acres wet land in Sr.No.147/1, Avilala Village, Tirupathi Rural , Chittoor District.

Counsel for the Petitioner: Mr. P.VENKAT RAO

Counsel for the Respondent No.1 : Mr. V.VENUGOPAL RAO

Counsel for the Respondent Nos. 2 & 3: GP FOR ENDOWMENTS

The Court at the admission stage made the following :

ORDER:

The grievance of the petitioner is that even though he has been in possession of the land in an extent of Ac.2-00 in Sr.No.147/1, Avilala Village, Tirupathi Rural, Chittoor District, since 1940 as a landless poor person, the first respondent is resorting to evict him without following due process of law.

2. Heard both sides and at their request the main Writ Petition is taken up for disposal at the stage of admission.

3. The issue in question had already fallen for consideration before this Court in a batch of Writ Petitions in W.P.No.12649 of 2003 and the same was disposed of with certain guidelines. Subsequently, a learned single Judge of this Court in W.P.No.14389 of 2003 also disposed of the Writ Petition with the same guidelines as were envisaged in the said batch. For sake of convenience and ready reference, the guidelines are extracted as follows:

> "1. The petitioners are granted liberty to make an application before the Assistant Commissioner of Endowments having territorial jurisdiction with all relevant material to support their plea that they are landless poor persons/small farmers/marginal farmers within three weeks from today. On such application being made the Assistant Commissioner of Endowments shall make necessary enquiry after giving a reasonable opportunity to the cultivating tenant and to the Executive Authority of the concerned Institution/Endowment and pass appropriate orders within four weeks thereafter.
>
> 2. If no such claim is made within three weeks from today, it is open to the Institutions/Endowments to proceed with the further steps in pursuance of the impugned notices issued in Form-I under Rule 5(1) of the Rules. However, if there is any standing crop on the land in question the respondents may consider the request of the cultivating tenants to permit them to continue in possession till the crop is harvested, subject to furnishing an undertaking by the cultivating tenant that they would hand over peaceful possession within the time mutually agreed.
>
> 3. Where an application is made by the petitioners within three weeks from today till appropriate orders are passed by the Assistant Commissioner determining the status of the cultivating tenant and till the 30 days time prescribed for preferring appeal under Rule 4 of the Rules is expired the impugned notice issued in Form-I under Rule 5(1) of the Rules shall not be given effect to and till such time all the parties are directed to maintain status quo obtaining as on today as to the

possession of the land in question, subject to payment of rents payable regularly.

4. If any of the petitioners already made a claim that he is a landless poor person, such claim shall be considered by the Assistant Commissioner of Endowments within a period of four weeks from the date of receipt of copy of this order.

5. Where there is already a determination by the concerned Assistant Commissioner as to the status of the cultivating tenant, if they are aggrieved by the said determination, it is open to them to prefer appeal under Rule 4, if not already preferred. Such appeals shall be disposed of by the Regional Joint Commissioner as expeditiously as possible, preferably within 4 weeks, taking into consideration the entire evidence available and after affording an opportunity to both the parties.

6. If any auction in respect of the leasehold rights of the land in question is held in the meantime, the same shall not be confirmed till the exercise of the determination of the status of the petitioner and the thirty days time prescribed for preferring appeal under Rule 4 is expired.

7. Wherever the cultivating tenants are determined to be the landless poor/small farmers/ marginal farmers they shall be continued as tenants provided if they agree to pay at least 2/3rd of the market rent for similarly placed lands as lease amount. It is also made clear that whenever the Institution/Endowment proposes to sell the said land following the procedure prescribed under the Act, an option shall be given to such cultivating tenant who is determined to be landless poor/small farmer/marginal farmer to purchase the land in terms of the procedure prescribed under Rule 6 of the Rules."

4. Accordingly the Writ Petition is disposed of with the same guidelines, provided, petitioner makes an application within a period of two weeks from the date of receipt of a copy of this order.

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(D.S.R.VARMA,J)

1st March, 2005.

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To

1 The Administrative Officer,

Sri Swamy Hathiramji Mutt, Tirupathi,

Chittoor Dist.

2 The Assistant Commissioner,

Endowments Department,

Chittoor, Chittoor Dist.

3 The Commissioner,

Endowments Department, Government of

A.P.Hyderabad.

4 Two CCs to the G.P.for Endowments, High Court Buildings,

Hyderabad. (OUT)

5 Two CD copies